

LEWIS JOHS
Lewis Johs Avallone Aviles, LLP
Counsellors at Law

November 22, 2022

Via ECF

The Honorable Jennifer L. Rochon
U.S. District Court, S.D.N.Y.
500 Pearl Street, Room 1920
New York, NY 10007

Re: Calcagno-King v. Goulette et al., Case Docket No.: 21-CV-8059-JPO

Dear Judge Rochon:

Attached are four (4) Subpoenas Ad Testificandum addressed to four (4) employees of the NYCTA/MTA regarding the above matter. Kindly So-Order these subpoenas as NYCTA/MTA is a public authority and they require that the Subpoenas be So-Ordered.

Thank you for your time and attention.

Respectfully submitted,

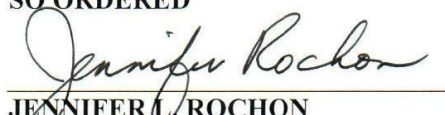
/s/

Jessica Klotz
jklotz@lewisjohs.com
Islandia Office
JK/lah

Request **DENIED**. Federal Rule of Civil Procedure ("Rule") 45(a)(3) permits an attorney authorized to practice in the issuing court to issue a subpoena. A "subpoena signed by Defendants' counsel 'is a mandate of the court sufficient to require compliance.'" *Palau v. TMC Transp. Inc.*, No. 20-cv-3242 (JPC), 2021 U.S. Dist. LEXIS 4878, at *2 (S.D.N.Y. Jan. 9, 2021) (internal citation omitted). Therefore, because a court order is not required to issue a subpoena under Rule 45, Defendants' request that the Court "So Order" the subpoenas is denied. Should the employees of the NYCTA/MTA fail to comply with a subpoena properly issued in accordance with the requirements of Rule 45, Defendants may move to compel discovery under Federal Rule of Civil Procedure 37(a) and request that the Court issue an order to show cause why the NYCTA/MTA employee(s) should not be held in contempt for failing to comply with the subpoena. *See* Fed. R. Civ. P. 45(g). If a motion to compel is successful, "the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both" may be ordered "to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. P. 37(a)(5).

SO ORDERED

Dated: November 28, 2022
New York, New York


JENNIFER L. ROCHON
United States District Judge